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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,369	08/20/2003	John Hwang	HNO-136-A	6416

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EXAMINER

LARSON, JUSTIN MATTHEW

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,369

Applicant(s)

HWANG ET AL.

Examiner

Justin M. Larson

Art Unit

3727

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/20/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/20/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/20/03 11/3/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (5,429,285) in view of Bowen (2,699,865). Kim discloses an apparatus (30) for holding and storing tools used in a vehicle comprising a storage body (30), shaped to fit securely in a hub of a spare wheel, where the storage body is an integral, unitary member (see esp. figures 4 & 5), and where the tool-storage spaces are formed as recesses in the body (col. 2 line 35). In addition, Kim teaches that "a plurality of depressions 34 of suitable shapes for keeping hand tools in places can be formed on the bottom of the lower part 30" (col. 2 line 35), or, in other words, the depressions or recesses in the storage body can be specifically shaped and sized to retain any hand tool one might desire to store, depending on the situation and their needs. Kim fails to disclose the particular shapes and dimensions of the tool-storing recesses, including a storage well for other tools and/or accessories. Bowen, however, teaches a tool kit that has specifically shaped recess to secure particular tools as well as a storage well (15) for storing other tools and/or accessories. The Bowen device, in particular, positions jack storage spaces (16 & 18) and a storage well (32) on opposite sides of a lug wrench-receiving space (20). Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify the device of Kim by resizing and reshaping the tool-retaining recesses, as taught by Kim himself, and also to include a separate storage well or plurality of wells, as taught by Bowen, in order to store additional items. Because the tool kit is to be stored in the spare tire of an automobile, it would be obvious to shape and size the recesses to retain auto-related tools such as a jack or lug wrench.

Regarding claims 1, 3, 7, and 8, the art as applied above discloses the claimed invention except for the specific size and shape limitations of the storage well and recesses. It would have been an obvious matter of design choice to adjust the volume and contour of the storage well, perhaps to maximize its storage capacity or to take up the remaining space in the storage body not already taken up by the other tool-retaining recesses. Similarly, it would have been an obvious matter of design choice to form the recess depths so that the tools they were intended to hold did not stick out above the top plane of the storage body, preventing the application of the lid or possibly even the proper placement of a car trunk panel that might cover the spare tire, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claims 11-20, the only newly claimed material that introduces structure over that which is already established in claims 1-10 is the inclusion of a vehicle raising jack and a lug wrench fit into their respective receiving spaces, found in

claim 11. Because the device of Bowen is shown to include both a vehicle raising jack and a lug wrench, the art as applied above satisfies claims 11-20.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim and Bowen, and further in view of Garber, Jr. (5,316,178). Kim and Bowen, as applied above, disclose the claimed invention except for the fact that the storage body is formed from foamed plastic. Garber, Jr., however, teaches a storage body (32) intended to carry a specific device (150) within specifically shaped retaining grooves (136,140 & 142) that are formed out of foamed plastic (col. 3 line 62). This is effectively the same problem solving area of the current invention in that a storage body is given very specifically shaped grooves in order to carry specific items. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Kim and Bowen by forming the storage body out of foamed plastic, as taught by Garber, Jr., in order to provide a carrying case with shock absorbing capabilities to reduce and dissipate any vibrations in the tools being carried while the vehicle is in motion.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koma, Leonardi, Spencer et al., Trigg, and Guarr teach storage containers sized to fit in a spare tire. O'Connell et al. and Roff teach vehicle tool kits. Hutchins et al. and Huang teach tool cases with specifically sized retaining recesses. Hofer, Woolworth and Castleberry teach the use of foamed plastic in a tool kit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on M-Th 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NATHAN J. NEWHOUSE
PRIMARY EXAMINER